

Senate Bill 255

By: Senators Butterworth of the 50th, Grant of the 25th, Harp of the 29th, Mullis of the 53rd, Hamrick of the 30th and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 16 of the Official Code of Georgia Annotated, the "Criminal Code of
2 Georgia," so as to require that persons convicted of certain crimes shall be required to wear
3 a global positioning system monitor capable of tracking and recording their location; to
4 provide for the offenses subject to such requirement; to provide for enforcement through
5 probation or parole requirements; to provide for fees to be paid by offenders and their
6 disposition; to provide for the award of contracts to providers of monitoring equipment and
7 services; to provide for waivers of privacy rights and other rights; to redefine the crime of
8 unlawfully interfering with monitoring equipment and provide for punishment; to provide
9 for construction; to provide for other matters related to the foregoing; to provide an effective
10 date; to repeal conflicting laws; and for other purposes.

11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

12 **SECTION 1.**

13 Title 16 of the Official Code of Georgia Annotated, the "Criminal Code of Georgia," is
14 amended by adding a new Chapter 18 as follows:

15 "CHAPTER 18.

16 16-18-1.

17 As used in this chapter, the term 'GPS monitoring offense' means:

18 (1) Murder or felony murder under Code Section 16-5-1;

19 (2) Voluntary manslaughter under Code Section 16-5-2;

20 (3) Aggravated assault under Code Section 16-5-21;

21 (4) Aggravated battery under Code Section 16-5-24;

22 (5) Kidnapping under Code Section 16-5-40;

23 (6) False imprisonment under Code Section 16-5-41;

24 (7) Trafficking of persons for labor or sexual servitude under Code Section 16-5-46;

- (8) Cruelty to children under Code Section 16-5-70;
- (9) Causing or permitting a child to be present where any person is manufacturing methamphetamine or possessing a chemical substance with the intent to manufacture methamphetamine under Code Section 16-5-73;
- (10) Stalking under Code Section 16-5-90;
- (11) Aggravated stalking under Code Section 16-5-91;
- (12) Any felony offense under Chapter 6 of this title, relating to sexual offenses;
- (13) Burglary under Code Section 16-7-1;
- (14) Any felony offense involving arson under Code Sections 16-7-60 through 16-7-64;
- (15) Possessing, manufacturing, transporting, distributing, possessing with the intent to distribute, or offering to distribute a destructive device under Code Section 16-7-82;
- (16) Robbery under Code Section 16-8-40;
- (17) Armed robbery under Code Section 16-8-41;
- (18) Attempted murder or threatening of witnesses in official proceedings under Code Section 16-10-32;
- (19) Bail jumping under Code Section 16-10-51;
- (20) Escape under Code Section 16-10-52;
- (21) Sexual exploitation of a child under Code Section 16-12-100;
- (22) Any felony offense involving trafficking, manufacturing, distributing, or possessing with intent to distribute controlled substances, marijuana, or illegal drugs under Chapter 13 of this title; and
- (23) Any felony offense under Chapter 15 of this title, the 'Georgia Street Gang Terrorism and Prevention Act.'

16-18-2.

As used in this chapter, the term 'GPS monitor' means an active assisted global positioning system to be worn by an offender that shall have, at a minimum:

- (1) The capacity to locate and record the location of the offender by a link to a global positioning satellite system;
- (2) The capacity to timely report or record the offender's presence near or within a crime scene or in a prohibited area or the offender's departure from specific geographic locations; and
- (3) An alarm that is automatically activated and broadcasts the offender's location if the monitor is removed or tampered with by anyone other than a law enforcement official designated to maintain and remove or replace the equipment.

16-18-3.

With respect to any offense committed on or after July 1, 2009, a person who is convicted under Code Section 16-5-95 of violation of a family violence temporary restraining order, temporary protective order, permanent restraining order, or permanent protective order issued against that person shall be sentenced to wear a GPS monitor for the lesser of:

(1) The remaining life of the order which was violated; or

(2) One year beginning on the date of conviction or release from confinement for the conviction, whichever is later.

Such requirement shall be enforced through a period of probation or parole as otherwise provided in this chapter.

16-18-4.

The following conditions shall be made a part of the sentence for any GPS monitoring offense committed on or after July 1, 2009:

(1) If the offender is placed on probation for any part of the sentence, he or she will be required to wear a GPS monitor for the entire period of probation or two years, whichever is shorter; and

(2) If the offender is paroled from confinement, he or she shall be required to wear a GPS monitor for the entire period of parole or two years, whichever is shorter.

16-18-5.

With respect to any GPS monitoring offense committed prior to July 1, 2009:

(1) If the offender is on or after July 1, 2009, placed on probation for any part of the sentence, the court may require as a condition of probation that the offender wear a GPS monitor for all or any part of the period of probation; and

(2) If the offender is paroled from confinement on or after July 1, 2009, he or she shall be required as a condition of parole to wear a GPS monitor for the entire period of parole unless the court finds that GPS monitoring should not be required.

16-18-6.

GPS monitoring required under this article shall be enforced by:

(1) The Department of Corrections if monitoring commences while the offender is on probation for a felony;

(2) The Board of Pardons and Paroles if the monitoring commences while the offender is on parole; or

(3) The appropriate local agency if the monitoring commences while the offender is on probation for a misdemeanor.

16-18-7.

(a) An offender who is subject to GPS monitoring under this chapter shall pay, as a condition of probation or parole and in addition to any other amounts required, a one-time fee prior to the commencement of monitoring and a recurring daily fee for each day during which monitoring takes place. The amount of such fees shall be established in the contract or contracts provided for in Code Section 16-18-9. If the offender establishes that he or she is indigent and unable to pay such fees under guidelines to be established by the Department of Corrections and the State Board of Pardons and Paroles, then the cost of monitoring shall be absorbed as provided in the contract or contracts provided for in Code Section 16-18-9.

(b) Such payments shall be made to the appropriate agency as identified under Code Section 16-18-6. The receiving agency shall use the balance of fees received for reimbursing GPS monitoring service providers under Code Section 16-18-9 and deposit any amounts in excess of those required for provider reimbursement into the general fund of the state treasury.

16-18-8.

An offender who is subject to GPS monitoring shall as a condition of probation or parole execute a waiver of any privacy rights or other rights which the offender might otherwise have which would prohibit warrantless, on demand location of the offender through GPS monitoring by any law enforcement agency.

16-18-9.

(a) The Department of Administrative Services, with the cooperation of the Georgia Technology Authority, shall through a process of competitive proposals award contracts to one or more GPS monitoring service providers to supply GPS monitors and track offenders wearing monitors.

(b) The equipment and tracking provided by a GPS monitoring service provider shall, at a minimum:

(1) Provide constant real time monitoring of the location of offenders wearing GPS monitors;

(2) Have the capacity to locate an offender on demand and provide uninterrupted location monitoring and reporting in increments of one minute or less;

(3) Have the capacity to timely report or record an offender's presence near or within a crime scene or in a prohibited area or the offender's departure from specific geographic locations;

(4) Have an alarm that is automatically activated and broadcasts the offender's location if the GPS monitor is removed or tampered with by anyone other than a law enforcement official designated to maintain and remove or replace the equipment;

(5) Provide all services including mapping, data storage, and other services through computer hardware and software which is compatible with the state's computer hardware and software and meets other technical requirements set by the Georgia Technology Authority;

(6) Use assisted global positioning and ensure noninterrupted location monitoring and reporting over different carrier networks; and

(7) Include dual-mode capable GPS monitors that can transmit data via a cellular or satellite modem.

(c) A GPS monitoring service provider shall maintain the historical data of all monitored offenders for on demand review by the responsible agency under Code Section 16-8-4 and other law enforcement agencies.

(d) The contract or contracts provided for in this Code section shall establish a fee structure which shall include:

(1) The amounts of fees to be paid under Code Section 16-8-7 by offenders who are not indigent which shall be established to cover the costs of monitoring all offenders subject to GPS monitoring; and

(2) The absorption by the GPS monitoring service provider of the costs of monitoring offenders who are determined to be indigent under the guidelines established by the Department of Corrections and the State Board of Pardons and Paroles.

16-18-10.

In the event of any conflict between this chapter and Article 2 of Chapter 1 of Title 42, relating to registration and monitoring of sexual offenders:

(1) If an offender is required to wear an electronic monitoring system under the terms of Article 2 of Chapter 1 of Title 48, then that article shall control; and

(2) If an offender is required to wear a GPS monitor under the terms of this chapter but is not required to wear an electronic monitoring system under the terms of Article 2 of Chapter 1 of Title 48, then this chapter shall control."

SECTION 2.

Said title is further amended by revising Code Section 16-7-29, relating to unlawful interference with electronic monitoring devices, as follows:

"16-7-29.

(a) For purposes of this Code section, the term 'electronic monitoring device' shall include any device that is utilized to track the location of a person.

(b) It shall be unlawful for any person to knowingly and without authority remove, destroy, or circumvent the operation of an electronic monitoring device which is being used for the purpose of monitoring a person who is:

(1) Complying with a home arrest program as set forth in Code Section 42-1-8;

(2) Wearing an electronic monitoring device as a condition of bond or pretrial release;

(3) Wearing an electronic monitoring device as a condition of probation; ~~or~~

(4) Wearing an electronic monitoring device as a condition of parole;

(5) Wearing an electronic monitoring device under Code Section 42-1-14, relating to classification of sexual offenders and monitoring of sexually violent predators; or

(6) Wearing an electronic monitoring device under Chapter 18 of this title, relating to GPS monitoring offenses.

(c) It shall be unlawful for any person to knowingly and without authority request or solicit any other person to remove, destroy, or circumvent the operation of an electronic monitoring device which is being used for the purposes described in subsection (b) of this Code section.

(d) Any person who violates this Code section shall be guilty of the offense of tampering with the operation of an electronic monitoring device and shall be punished by imprisonment for not less than one nor more than five years."

SECTION 3.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.